

SIEMENS

PATENT
Attorney Docket No. 2002P08760WOUS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Inventor:	M. Schlereth)	Group Art Unit:	2157
)		
Serial No.:	10/519,627)	Examiner:	Kim, Hee Soo
)		
Filed:	12/28/2004)	Confirmation No.:	7845

Title: SYSTEM AND METHOD FOR DIRECT COMMUNICATION BETWEEN
AUTOMATION APPLIANCES

Mail Stop Appeal Brief - Patent
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPELLANT'S REPLY BRIEF UNDER 37 CFR 41.41

Sir:

Pursuant to 37 C.F.R. § 41.41, this Reply Brief is responsive to the Examiner's Answer mailed 4 August 2008 in which the Examiner raised new points of argument. This is not a substitute for the Appeal Brief. Any ground for rejection in Examiner's Answer that is not refuted herein is considered by Appellant to have been sufficiently argued in the Appeal Brief, such that no further comment is needed herein. Arguments herein focus on errors and new arguments presented in the Examiner's answer.

The Examiner's substantive response to Appellants' argument in the section captioned (10) **Response to Argument**, beginning on page 7 of the Examiner's Answer, is an attempt to rebut the fact that the plain language of the Primm reference fails to disclose at least the following features of independent claim 28:

“**all** of the automation devices forward each request which arrives via a receiving mechanism to **all other** automation devices for which it has knowledge” [Emphasis Added.]

Having indicated to the Examiner on multiple occasions, most recently in the Appeal Brief, that this feature is not to be found in the Examiner's citation of the Primm reference at col. 7, lines 27-52, the Examiner now provides new argument in another flawed attempt to argue that this feature is anticipated. Specifically, the Examiner now takes the literal language of this passage and equates it with the above-quoted claim language. To do so, the Examiner expressly and in boldface font points to the words **either** and **or** to argue that they mean something other than the plain meaning of these words, and therefore render the disclosure equivalent to the claim recitation. This simply cannot be. The Examiner apparently admits that the citation from Primm expressly states (col. 7, lines 28-30) that

"the appliance, once an alarm condition is achieved, **may** send an alert, either to other network appliances **or** to the remote monitoring system ... [W]hen an alarm condition is achieved by one network appliance, other network appliances send their information to the remote monitoring system **or** respond accordingly." [Emphasis Added.]

Now, the Examiner's new argument interprets the express use of the words **may** and **or** as though they mean "always" and "completely". While Primm does disclose the possibilities of sending alerts to **some** other appliances **or** to the remote monitoring system, Primm does **not** disclose having **all** of the monitoring devices forward **each** request which arrives **to all other monitoring devices** for which there is knowledge.

It is with these strained interpretations of a passage, taken out of context from a reference relating to sending signals of an alarm condition, that the Examiner tries to argue anticipation of the method according to claim 28. Claim 28 requires sending address information to an automation device which **submits a request** and having all of the automation devices **forward**

each request to all other automation devices. Noting in the Examiner's new points of argument demonstrates that all of the features recited in the following passage are met:

 sending an address by the automation devices directly to the automation device which submits the request,
 wherein **all** of the automation devices forward each request which arrives via a receiving mechanism **to all** other automation devices for which it has knowledge.

The foregoing differences confirm that the Primm reference cannot anticipate claim 28. Similar reasoning applies to the other independent claims 37 and 44.

Also, in response to the numerous times the Examiner has suggested in the Answer Brief that Appellants have not "carefully read" the prior art, it is again noted that the claims are directed to combinations and that as combinations the dependent claims include features recited in the independent claims. Thus, as pointed out in the argument relating to the dependent claims, notwithstanding disclosure of specific "pieces" of the claims, e.g., peer-to-peer communication of claim 29, Appellant claims a non-obvious combination. Appellant has carefully read the prior art and concludes that a non-obvious combination still exists because the Examiner has not made a valid case for anticipation or obviousness.

Conclusion

In summary, the argument presented in the Examiner's Answer fails to identify the requisite support to sustain any prior art rejection. The new points of argument are without support just as the arguments presented in the final rejection are without basis. In view of the several deficiencies identified in the Answer brief, Appellant again respectfully submits that the rejections are in error. The Board is therefore respectfully requested to reverse the final rejection of the Examiner and to remand the application to the Examiner with instructions to allow all of the pending claims.

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Please grant any extensions of time required to enter this paper. Please charge any appropriate fees due in connection with this paper or credit any overpayments to Deposit Acct. No. 19-2179.

Respectfully submitted,

Dated: 10/3/08

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